

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO 3:07-cv-00367-RJC-DCK

BRITISH AMERICAN INVESTMENTS,  
LLC,

Plaintiff,

v.

FIESTA PROPERTIES, LLC; COMPASS  
PARTNERS, LLC; DAVID BLATT; and  
INVESTORS TITLE INSURANCE  
COMPANY,

Defendants.

**MOTIONS TO DISMISS**

Fiesta Properties, LLC ("Fiesta"), Compass Partners, LLC ("Compass"), and David Blatt ("Blatt") (collectively "Defendants") respectfully move this Court under F.R. Civ. P. 12(b)(1) and 12(b)(2) (2007) to dismiss the Amended Complaint and Jury Demand ("Amended Complaint") that British American Investments, LLC ("Plaintiff" or "BAI"), filed on December 4, 2007. As detailed more fully in Defendants' accompanying brief, this Court should dismiss the Amended Complaint in its entirety because it fails to sufficiently allege (1) that subject matter jurisdiction exists under 28 U.S.C. § 1332; and (2) that the transferor court--the United States District Court for the District of Nevada, Reno Division--could properly exercise personal jurisdiction over Defendants.

Defendants also respectfully move this Court under F.R. Civ. P. 9(b) and (12)(b)(6) (2007) to dismiss the "First Claim for Relief" set forth in the Amended Complaint. As detailed more fully in Defendants' accompanying brief, this Court should dismiss such claim with prejudice because the Amended Complaint--like its defective predecessor--fails to allege (1) the time that any purported misrepresentation was

made; (2) the place where any purported misrepresentation was made; (3) the place where any purported misrepresentation was received; or (4) the individual recipient of any purported misrepresentation.

**WHEREFORE**, Defendants respectfully move this Court to grant their Motions to Dismiss under F.R. Civ. P. 9(b), 12(b)(1), 12(b)(2), and/or 12(b)(6) (2007).

Respectfully submitted this 17<sup>th</sup> day of December, 2007.

**JAMES, McELROY & DIEHL, P.A.**

s/ Charles M. Viser

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*Counsel for Fiesta Properties, LLC,  
Compass Partners, LLC, and David Blatt*

## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed this document entitled **MOTIONS TO DISMISS** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record as follows:

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*Counsel for Investors Title Insurance Company*

This the 17<sup>th</sup> day of December, 2007.

**JAMES, McELROY & DIEHL, P.A.**

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